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ABSTRACT

This document presents the educator with a guide to child abuse. A section defining child abuse examines the issues of physical abuse, physical neglect, sexual abuse, and emotional maltreatment. Areas discussed for these types of abuse include abuse indicators, location of injury, history, behavioral indicators, and types of injury. Incestuous and intrafamilial sexual abuse are also addressed. Twelve questions and answers are discussed under a section on the educator's responsibilities. These questions concern: (1) requirements of California's Child Abuse Reporting Law; (2) educators and child care providers as mandated reporters under the Child Abuse Reporting Law; (3) penalties for failure to report child abuse; (4) how to report suspected abuse; (5) employer-established reporting procedures; (6) responsibilites other than reporting abuse; (7) immunity from civil or criminal liability for mandated reporters; (8) reimbursement for attorney's fees; (9) how reports are handled; (10) confidentiality of mandated reporter identity; (11) confidentiality of investigative reports of suspected child abuse; and (12) notification of parents or guardians concerning release of a suspected abuse victim to peace officer custody. A suspected child abuse medical report form and a suspected child abuse report form are appended. (NB)

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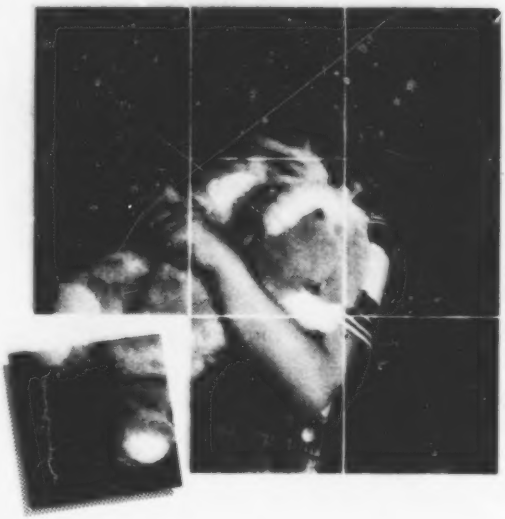
Child Abuse

Educator's Responsibilities



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Introduction

It shouldn't hurt to be a kid! Yet children are hurt every day. For these children there is no hope unless we, individually and collectively, wake up and realize that our most important duty is the protection, welfare and growth of our children.

As teachers, school nurses, counselors, principals, supervisors of child welfare and attendance, other designated school personnel, and child care providers, you are mandated to report known or suspected child abuse cases. By reporting child abuse cases, you play a critical role in the early detection of child abuse and neglect. Without detection, reporting, intervention, and treatment, we are ensuring that many abused children remain victims for the rest of their lives.

Abused children don't just grow up and forget the horrors of their childhood. Child abuse can leave a scar that is carried throughout life, and our criminal statistics bear out the fact that the abused all too often grow up to be criminals or abusers. Studies suggest that 85 percent of convicted violent criminals were abused children.

We know that breaking the cycle of child abuse will not only protect our children, but will reduce crime now and in the future. That is why I have made the prevention of child abuse and the enforcement of child abuse laws a major priority of my administration and have mounted a focused and rational effort to tackle this issue.

In October 1984, I formed a multidisciplinary Commission on the Enforcement of Child Abuse Laws. The Commission was charged with examining California's systems for the reporting, investigation, prosecution, and prevention of child abuse, for the protection of children in licensed child day care facilities, and with recommending ways to improve each of these systems. The Commission reported its findings and recommendations to me in April 1985. We moved promptly to make those recommendations a reality, through state and federal legislative reforms, and through a series of administrative changes.

During this past year we have made some progress. There is greater awareness of the problem. More is being done to meet it head on. But we have a long way to go.

It is with that in mind that I commend this publication to you, in the hope that in its own way it will provide some guidance as to how to deal with this important problem.

JOHN K. VAN DE KAMP
Attorney General

What Is Child Abuse?

To many, child abuse is narrowly defined as having only physical implications. In reality, child abuse includes:

- **Physical abuse**
- **Physical neglect**
- **Sexual abuse**
- **Emotional maltreatment**

Indicators for suspected child abuse are presented in this publication to assist mandated reporters in meeting their responsibilities under the Child Abuse Reporting Law.

One of the most important grounds for suspecting child abuse is *when a child tells someone.* It is essential that *when a child tells a particular person who is an individual required to report child abuse, the communication is not privileged. That individual, by law,* must report suspected child abuse. This requirement applies to physical abuse, severe emotional maltreatment constituting willful cruelty or unjustifiable punishment of a child, neglect or sexual abuse. Mandated reporters who report such suspected child abuse cases have absolute immunity, both civilly and criminally, for making such reports.

PHYSICAL ABUSE

Physical abuse may be defined as any act which results in a nonaccidental physical injury. Inflicted physical injury most often represents unreasonably severe corporal punishment or unjustifiable punishment. This usually happens when the parent is frustrated or angry and strikes, shakes or throws the child.

Intentional, deliberate assault, such as burning, biting, cutting, poking, twisting limbs or otherwise torturing a child, is also included in this category of child abuse.

Indicators of Physical Abuse

These indicators are used to distinguish accidental injuries from suspected physical abuse:

Location of Injury

- **The primary target zone for infliction of injuries is the back surfaces of the body from the neck to the knees. Such injuries constitute the largest percentage of identified abuse, although injuries are also inflicted on other parts of the body (e.g., face).**
- **Injuries from abuse are not typically located on shins, elbows, or knees.**
- **Bilateral injuries or those on several different parts of the body may be suspect.**

History

The history includes all facts about the child and the injury including:

- **Child states that the injury was caused by abuse. (Although chronically abused children *may* deny abuse.)**
- **Knowledge that a child's injury is unusual for a specific age group (e.g., any fracture in an infant).**
- **Knowledge of a child's history of previous or recurrent injuries.**
- **Unexplained injuries (e.g., parent is unable to explain reason for injury; there are discrepancies in explanation; blame is placed on a third party; explanations are inconsistent with medical diagnosis).**

Behavioral Indicators

The following behaviors may result from child abuse:

- **Parent/caretaker delays seeking care for a child or fails to seek appropriate care.**
- **Child is excessively passive, compliant, or fearful; or at the other extreme, excessively aggressive or physically violent.**
- **Child and/or parent/caretaker attempts to hide injuries; child wears excessive layers of clothing, especially in hot weather; child is frequently absent from school or physical education classes; child unable to sit down.**

Types of Injuries

Damage to Skin and Surface Tissues

- **Bruises (especially linear marks or those in clusters)**
- **Burns (cigarette, rope, dunking or scalding)**
- **Bite marks (human)**
- **Abrasions, lacerations, scars**

Damage to Brain

- **Head injuries**
- **"Whiplash shaken infant syndrome"**

Damage to Other Internal Organs

- **Internal injuries**

Damage to Skeleton

- **Fractures**

PHYSICAL NEGLECT

Neglect is essentially the negligent treatment or maltreatment of a child by a parent or caretaker under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person. California law defines two categories of physical neglect—"severe neglect" and "general neglect."

"Severe neglect" means the negligent failure of a parent or caretaker to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. It also includes those situations of neglect where the parent or caretaker willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered. This includes the intentional failure to provide adequate food, clothing, shelter, or medical care.

"General neglect" means the negligent failure of a parent or caretaker to provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred.

Indicators of Neglect

Neglect may be suspected if the following conditions exist:

- **The child is lacking adequate medical or dental care.**
- **The child is always sleepy or hungry.**
- **The child is always dirty, demonstrates poor personal hygiene or is inadequately dressed for weather conditions.**
- **There is evidence of poor supervision (repeated falls down stairs; repeated ingestions of harmful substances; a child cared for by another child); the child is left alone in the home, or unsupervised under any circumstances (left in car, street, etc.).**
- **The conditions in the home are unsanitary (garbage, animal or human excretion).**
- **The home lacks heating or plumbing.**
- **There are fire hazards or other unsafe home conditions.**
- **The sleeping arrangements are cold, dirty or otherwise inadequate.**
- **The nutritional quality of food in the home is poor.**
- **Meals are not prepared.**
- **There is spoiled food in the refrigerator or cupboards.**

While some of these conditions may exist in any home environment, *it is the extreme* or *persistent* presence of these factors that indicate some degree of neglect.

Psychosocial Failure to Thrive

Infants or young children who are much smaller than would be expected at a particular age can be a difficult diagnostic problem. Most of these children are small because of a failure to meet their nutritional needs and/or failure to meet their emotional needs. These children may also demonstrate delayed development and abnormal behavior.

If left untreated, the health or person of the child may be endangered, and emotional disorders, school problems, retardation and other forms of dysfunction may result.

SEXUAL ABUSE

Sexual abuse is defined as acts of sexual assault on and sexual exploitation of minors. Sexual abuse encompasses a broad spectrum of behavior and may consist of many acts over a long period of time (chronic molestation), or a single incident. Victims range in age from less than one year through adolescence. Specifically, sexual assault includes: rape, rape in concert, incest, sodomy, lewd or lascivious acts upon a child under 14 years of age, oral copulation, penetration of a genital or anal opening by a foreign object, and child molestation. Sexual exploitation includes conduct or activities related to pornography depicting minors, and promoting prostitution by minors.

The nature of sexual abuse, the guilt and shame of the child victim, and the possible involvement of parents, stepparents, friends, or other persons in a child caretaker role, make it extremely difficult for children to come forward to report sexual abuse.

Sometimes a child who does seek help is accused of making up stories, since many people cannot believe that the apparently well-adjusted person involved could be capable of sexual abuse. When the matter does come to the attention of authorities, the child may give in to pressure from parents/caretakers and deny that any sexual abuse has occurred. Even if protective attention is gained, the child may feel guilty about "turning in" the abuser or breaking up the family and, consequently, withdraw the complaint. This process leads many to be skeptical of a child's complaint of sexual abuse, and leaves him or her feeling helpless and guilty for causing so much trouble.

The sad reality of sexual abuse is that without third-party reporting, the child often remains trapped in secrecy by shame, fear and the threats of the abuser.

Indicators of Sexual Abuse [1]

Sexual abuse of a child may surface through a broad range of physical, behavioral, and social symptoms. Some of these indicators, taken separately, may not be symptomatic of sexual abuse. They are listed below as a guide, and should be examined in the context of other behavior(s) and/or situational factors.

History

- **Child reports sexual activities to a friend, classmate, teacher, friend's mother, or other trusted adult. The disclosure may be direct or indirect, e.g., "I know someone"; "What would you do if?"; "I heard something about somebody." (It is not uncommon for the disclosure by children experiencing chronic or acute sexual abuse to be delayed.)**
- **Child wears torn, stained, or bloody underclothing.**
- **Knowledge that a child's injury/disease is unusual for the specific age group.**
- **Knowledge of a child's history of previous or recurrent injuries/diseases.**
- **Unexplained injuries/diseases (e.g., parent unable to explain reason for injury/disease); there are discrepancies in explanation; blame is placed on a third party; explanations are inconsistent with medical diagnosis.**
- **A young girl is pregnant or has a sexually transmitted disease.**

[1] Information taken from *State Medical Protocol for Examination, Treatment, and Collection of Evidence From Sexual Assault Victims*, developed and distributed by the State Office of Criminal Justice Planning, 1985.

Behavioral Indicators

Sexual behaviors of children

- Detailed and age-inappropriate understanding of sexual behavior (especially by younger children).
- Inappropriate, unusual or aggressive sexual behavior with peers or toys.
- Compulsive masturbation.
- Excessive curiosity about sexual matters or genitalia (self and others).
- Unusually seductive with classmates, teachers, and other adults.
- Prostitution or excessive promiscuity.
- Excessive concern about homosexuality (especially by boys).

Behavioral Indicators in Younger Children.

- Enuresis.
- Fecal soiling.
- Eating disturbances (overeating, undereating).
- Fears, phobias, overly compulsive behavior.
- School problems or significant change in school performance (attitude and grades).
- Age-inappropriate behavior (pseudomaturity or regressive behavior such as bedwetting or thumb sucking).
- Inability to concentrate.
- Sleeping disturbances, e.g., nightmares, fearful about falling asleep, fretful sleep pattern, sleeping long hours.

Behavioral Indicators in Older Children and Adolescents

- Withdrawal.
- Clinical depression.
- Overly compliant behavior.
- Poor hygiene or excessive bathing.
- Poor peer relations and social skills, inability to make friends.
- Acting out, runaway, aggressive or delinquent behavior.
- Alcohol or drug abuse.
- School problems, frequent absences, sudden drop in school performance.
- Refusal to dress for physical education.
- Nonparticipation in sports and social activities.
- Fearful of showers/restrooms.

- **Fearful of home life demonstrated by arriving at school early or leaving late.**
- **Suddenly fearful of other things (going outside, participating in familiar activities).**
- **Extraordinary fear of males (in cases of male perpetrator and female victim).**
- **Self-consciousness of body beyond that expected for age.**
- **Sudden acquisition of money, new clothes or gifts with no reasonable explanation.**
- **Suicide attempt or other self-destructive behavior.**
- **Crying without provocation.**
- **Firesetting.**

Physical Symptoms

- **Sexually transmitted diseases.**
- **Genital discharge or infection.**
- **Physical trauma or irritation to the anal/genital area (pain, itching, swelling, bruising, bleeding, lacerations, abrasions, especially if unexplained or inconsistent).**
- **Pain on urination/defecation.**
- **Difficulty in walking or sitting due to genital or anal pain.**
- **Stomachaches, headaches, or other psychosomatic symptoms.**

Incestuous/Intrafamilial Sexual Abuse

Sexual abuse of children within the family is the most hidden, least publicized form of child abuse. In spite of its taboo nature and the difficulty of detection, some researchers believe such abuse may be even more common than physical abuse.

In discussing sexual abuse, "incest" means sexual activity between persons who are blood-related; "intrafamilial" refers to sexual activity between family members not related by blood (stepparents, boyfriends, etc.).

The initial sexual abuse may occur at any age, from infancy through adolescence. However, the largest number of cases involves females under the age of 11 years. Sexual abuse is followed by guilt-provoking demands for secrecy and/or threats of terrible harm or consequences if the secret is revealed.

Until the victim is old enough to realize that incest is not a common occurrence, and/or he or she is strong enough to obtain help outside the family, there is no escape.

EMOTIONAL MALTREATMENT

Emotional Abuse

Just as physical injuries can scar and incapacitate a child, emotional maltreatment can similarly cripple and handicap a child emotionally, behaviorally and intellectually. Severe psychological disorders have been traced to excessively distorted parental attitudes and actions. Emotional and behavioral problems, in varying degrees, are very common among children whose parents abuse them emotionally.

Excessive verbal assaults (belittling, screaming, threats, blaming, sarcasm), unpredictable responses (inconsistency), continual negative moods, constant family discord and double-message communication are examples of ways parents may subject their children to emotional abuse.

Behavioral Indicators of Children

Emotional abuse may be suspected if the child:

- **Is withdrawn, depressed or apathetic.**
- **"Acts out," and is considered a "behavior problem."**
- **Is overly rigid in conforming to instructions of teachers, doctors and other adults.**
- **Displays other signs of emotional turmoil (repetitive, rhythmic movements; inordinate attention to details; no verbal or physical communication with others).**
- **Unwittingly makes comments such as, "Mommy always tells me I'm bad."**

The behavior patterns mentioned may, of course, be due to other causes, but the suspicion of abuse should not be precluded.

Behavioral Indicators of Parents/Caretakers

A child may become emotionally distressed when:

- **Parents/caretakers place demands on the child which are based on unreasonable or impossible expectations or without consideration of the child's developmental capacity.**
- **The child is used as a "battleground" for marital conflicts.**
- **The child is used to satisfy the parent's/caretaker's own ego needs and the child is neither old enough nor mature enough to understand.**
- **The child victim is "objectified" by the perpetrator, i.e., the child is referred to as "it" ("it" cried, "it" died).**

Emotional abuse can be seen as proving a self-fulfilling prophecy. If a child is degraded enough, the child will begin to live up to the image communicated by the abusing parent or caretaker.

Emotional abuse cases are extremely difficult to prove, and *accumulative documentation by witnesses is imperative*. Such cases should be referred to treatment as soon as possible.

Only suspected cases of severe emotional abuse that constitute willful cruelty or unjustifiable punishment of a child are required to be reported by mandated reporters. However, mandated reporters *may* report any degree of emotional abuse.

Emotional Deprivation

Emotional deprivation has been defined as "... the deprivation suffered by children when their parents do not provide the normal experiences producing feelings of being loved, wanted, secure and worthy."

Behavioral Indicators of Emotional Deprivation

Emotional deprivation should be suspected if the child:

- **Refuses to eat adequate amounts of food and is thus very frail.**
- **Is unable to perform normal learned functions for a given age, e.g., walking, talking, etc.**
- **Displays antisocial behavior (aggression, disruption) or obvious "delinquent" behavior (drug abuse, vandalism); conversely, the child may be abnormally unresponsive, sad or withdrawn.**
- **Constantly "seeks out" and "pesters" other adults (such as teachers, neighbors, etc.) for attention and affection.**
- **Displays exaggerated fears.**

When parents ignore their children, whether because of drugs or use of alcohol, psychiatric disturbances, personal problems or other preoccupying situations, such as outside activities, serious consequences may occur. However, these situations are not reportable unless they constitute a form of legally defined abuse.

What Are the Educator's Responsibilities?

1. WHAT DOES THE CHILD ABUSE REPORTING LAW REQUIRE?

The Child Abuse Reporting Law requires certain professionals and laypersons who have a special working relationship or contact with children ***to report*** suspected abuse to the proper authorities. The Child Abuse Reporting Law states that:

> *"... any child care custodian,* [defined below] *medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, 'reasonable suspicion' means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse."* (Pen. Code, § 11166.)

2. ARE EDUCATORS AND CHILD CARE PROVIDERS MANDATED REPORTERS UNDER THE CHILD ABUSE REPORTING LAW?

Yes. Educators and child care providers are included in the definition of "child care custodian."

A child care custodian includes the following occupations or professions: teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program [2] in any public or private school. (Pen. Code, § 11165, subd. (h).)

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[2] Although, as enacted, subd. (h) of Pen. Code, § 11165 contains the term "presentation program," the term intended is, apparently, "prevention program." See Pen. Code, § 11165.1, i.e., *"In addition to those persons specified in the definition of 'child care custodian' contained in § 11165, the term also includes any person who is an administrator or presenter of, or a counselor in, a child abuse* ***prevention program*** *in any public or private school."* (Emphasis added.)

Penal Code section 11165.5 (1985) adds:

> *"... 'child care custodian,' in addition to the persons specified therein* [Pen. Code, §§ 11165, 11166.5]*, means an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education. It also includes a* ***classified employee*** *of any public school who has been trained in the duties imposed by this article if the school has so warranted to the State Department of Education."* (Emphasis added.) (School districts which do not train the employees specified in Pen. Code, § 11165.5 in the duties of child care custodians under the Child Abuse Reporting Law shall report to the State Department of Education the reasons why this training is not provided (Stats. 1985, ch. 1420, § 2).)

Penal Code section 11165.6 (1985) adds:

> *"... 'child care custodian,' in addition to persons specified therein* [Pen. Code, §§ 11165, 11166.5]*, includes a licensee, an administrator, or an employee of any child day care facility licensed to care for children."*

Employees of community service programs or organizations for abused or neglected children under contract or agreement with a county to provide shelter care or counseling are also considered "child care custodians." (Welf. & Inst. Code, § 307.5.)

3. ARE THERE ANY PENALTIES IF A MANDATED REPORTER FAILS TO REPORT CHILD ABUSE?

Yes. Failure to report by telephone immediately or as soon as practically possible and in writing within 36 hours is a misdemeanor punishable by six months in jail or a $1,000 fine, or both. (Pen. Code, § 11172, subd. (d).) Basically, this penalty ensures that those required to do so will report all suspected incidents of child abuse immediately to a child protective agency (the local police or sheriff's department, the county welfare department,[3] or juvenile probation department.) For those required to report who do not do so, there may also be civil liabilities.

4. HOW DO I REPORT?

If you are a mandated reporter, you must make a telephone report of suspected child abuse immediately or as soon as practically possible to a child protective agency (local police or sheriff's department, the

[3] The agency responsible for public child welfare services, i.e., the county welfare, social services, human services, or children's services department, commonly referred to as children's protective services.

county welfare department, or juvenile probation department) and provide the following information:

- name of the person making the report;
- name of the child;
- present location of the child;
- nature and extent of the injury; and
- any other information, including information that led that person to suspect child abuse, requested by the child protective agency. (Pen. Code, § 11167, subd. (a).)

Within 36 hours of making the telephone report, you must also file a written report with the child protective agency. (Pen. Code, § 11166, subd. (a).) The written report must be filed on Department of Justice Form SS 8572 which is available through county welfare or probation departments and law enforcement agencies. (See Appendix II for a sample of this form.)

In addition to the standard Department of Justice form, the Attorney General has adopted a special, uniform reporting form entitled "Medical Report—Suspected Child Abuse" (DOJ 900), which medical personnel (e.g., school nurses) are required by law (Pen. Code, § 11168) to complete, even absent the consent of the child's parent or caretaker. (See Appendix I for a sample of this form.)

The medical reporting form was designed to elicit a sufficient amount of data concerning suspected child abuse, but at the same time not to be unduly burdensome to the reporting medical personnel and thereby discourage its use. It is also designed to be educational, as well as instructive, for medical personnel who come in contact with possible child abuse. The form is printed by the Department of Justice, and copies are available through county welfare or probation departments and law enforcement agencies.

There is no time limitation on the duty to report. Upon suspecting that a child has been abused, you must report. The statute of limitations on prosecuting a suspected child abuse case is three or six years, depending on the crime.

5. DOES THE LAW ALLOW MY EMPLOYER TO ESTABLISH REPORTING PROCEDURES?

Yes, but only if your employer's policies or procedures do not prohibit or impede you from making a report directly to a child protective agency. The law provides that these procedures may be established to facilitate reporting and apprise supervisors and administrators of reports. (Pen. Code, § 11166, subd. (f).)

It has been the practice of many employers to develop special procedures for reporting child abuse. Personnel who are mandated to report should be aware, however, that regardless of the existence of

such procedures, reporting to a child protective agency is still required by law and *"good intentions"* may not be a defense in a criminal or civil action initiated for failure to report. Furthermore, reporting is an *individual* responsibility. No supervisor or administrator may interfere with the individual reporting responsibility; nor may a mandated reporter be absolved of responsibility by relying on a supervisor or administrator to meet his or her individual statutory responsibility. Any supervisor or administrator who impedes or inhibits the reporting duties of a mandated reporter or sanctions the person for making a report is guilty of a misdemeanor which is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than $1,000 or both. (Pen. Code, § 11166.1 (1985).)

For example, when a person works for an organization which has policies and procedures regarding making any reports to outside agencies, the law protects an individual who reports the child abuse or the suspicion of child abuse to a child protective agency from any sanction for violating organizational policies. The organization can, however, ask that the employee apprise them of reports being made to a child protective agency. However, the employee cannot be prohibited or impeded from making a report directly to a child protective agency. (Pen. Code, § 11166, subd. (f).)

When two or more school employees who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, *they may elect one person to report*. It is not necessary for each person to do so. However, if the person elected to report fails to do so, then the other person(s) should report immediately upon finding out this information to avoid liability. (Pen. Code, § 11166, subd.(e).)

To help achieve uniformity and consistency in reporting practices, many county superintendents of schools have developed administrative guidelines to aid school districts with identification and reporting of child abuse. The county school offices also participate as school representatives on child abuse councils in counties throughout the state.

6. DO EMPLOYERS OF MANDATED REPORTERS HAVE ANY OTHER RESPONSIBILITIES UNDER THE CHILD ABUSE REPORTING LAW?

Yes. A 1984 amendment to the reporting law requires that:

> *"Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, or with a child protective agency, prior to commencing his or her employment and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions."* (Pen. Code, § 11166.5.)

7. DOES THE LAW PROVIDE ANY IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR MANDATED REPORTERS?

Yes. Mandated reporters are provided *absolute immunity from civil or criminal liability as a result of making a required or authorized report of known or suspected child abuse. Other persons who report are not liable, either civilly or criminally, unless it can be proven that a false report was made and that the person knew that the report was false.* (Pen. Code, § 11172, subd. (a).)

8. CAN A MANDATED REPORTER WHO IS SUED FOR REPORTING CHILD ABUSE BE REIMBURSED FOR ATTORNEY'S FEES?

Yes. In the event a civil action is brought against a mandated reporter as a result of a required or authorized report, he or she may present a claim to the State Board of Control for reasonable attorney's fees incurred in the action if he or she prevails in the action or the court dismisses the action upon a demurrer or motion for summary judgment made by that person. The maximum hourly rate for recovery of attorney's fees is that charged by the Attorney General at the time of the award and the maximum recovery is $50,000. Public entities providing a defense pursuant to Government Code section 995 may not file a claim. (Pen. Code, § 11172, subd. (c).)

9. WHAT HAPPENS TO THE REPORTS?

Reports are investigated by either the local law enforcement agency and/or by the county child welfare agency (county welfare and/or probation department).

Those required to report should be aware that reporting does not always mean that a civil or criminal proceeding will be initiated against the suspected abuser.

If an investigation does not reveal evidence of child abuse, but suggests other family problems or a potential abuse situation, the child welfare agency can attempt to intervene and offer appropriate services to prevent the crisis before it happens.

Reports received by county child welfare agencies, except for reports involving "general neglect," are cross-reported immediately, or as soon as practically possible, to the local law enforcement agency and district attorney's office having jurisdiction. General neglect is reported only to the county welfare department. Law enforcement agencies are also required to cross-report immediately, or as soon as possible, to child welfare agencies and the district attorney's office. So, essentially, the reporting law is designed to ensure that the law enforcement and child welfare agencies and district attorneys receive all reports, except general neglect, whether initially reported to them or to another child protective agency. (Pen. Code, § 11166, subd. (g).)

In turn, all child protective agencies (law enforcement, welfare and probation) are required by law to file, with the Child Abuse Central Registry in the Bureau of Criminal Statistics and Special Services, California Department of Justice, a report on every case (except "general neglect" cases) they investigate which is determined not to be unfounded. (Pen. Code, § 11169.)

A child protective agency must also notify the Child Abuse Central Registry in writing of any case which is determined to be unfounded, in which a prior report was submitted. An incident can be unfounded only if it is proven to be a false report, inherently improbable, an accidental injury, or not within the definition of child abuse. If an unfounded report is filed, the initial report is removed from the registry. (Pen. Code, § 11169.) However, unsubstantiated reports are retained in the Central Registry for the purpose of identifying a pattern of abuse not reflected in prior arrests or convictions.

After a report of known or suspected abuse is received, the name index is searched to determine whether there is a record of prior abuse involving the victim or suspect, and the case is added to the Central Registry. The reporting law enforcement agency or local welfare or juvenile probation department is notified immediately of any prior abuse reports. (Pen. Code, §11170, subd. (b).)

An obvious history of abuse is not always easily spotted because child abusers tend to move or to take their children to different doctors or hospitals for treatment of each new injury. Therefore, the index is vital to investigatory agencies to provide information on prior incidents for purposes of early identification and intervention.

10. IS THE IDENTITY OF A MANDATED REPORTER CONFIDENTIAL? (Pen. Code, § 11167, subd. (c).)

Yes. The identity of all persons who report known or suspected child abuse is confidential and may only be disclosed as follows:

- Between child protective agencies.
- To counsel representing a child protective agency.
- To the district attorney in a criminal prosecution.
- To the district attorney in an action initiated under Welfare and Institutions Code section 602 (wards; minors violating laws defining crime) arising from alleged child abuse.
- To the child's counsel appointed pursuant to Welfare and Institutions Code section 318.
- To the county counsel or district attorney in an action initiated under Civil Code section 232 (termination of parental rights) or Welfare and Institutions Code section 300 (dependent children).
- To a licensing agency when abuse in out-of-home care is reasonably suspected.
- By court order.
- When the reporter waives confidentiality.

11. ARE INVESTIGATIVE REPORTS OF SUSPECTED CHILD ABUSE CONFIDENTIAL? (Pen. Code, § 11167.5.)

Required reports of suspected child abuse and the information contained in those reports are confidential and may only be disclosed as follows:

- To those same persons or agencies to whom a reporter's identity may be disclosed.
- To persons or agencies to whom disclosure of registry and investigative information is permitted under Penal Code section 11170, subdivision (b).
- To persons or agencies with whom investigations of child abuse are coordinated under the Regulations for the Investigation of Child Abuse in Group Homes or Institutions (11 Cal. Admin. Code, §§ 930-930.8).
- To multidisciplinary personnel teams as defined in Welfare and Institutions Code section 18951, subdivision (d).
- To the state Department of Social Services when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.

Any violation of these confidentiality provisions is a misdemeanor punishable by up to six months in jail or by a fine of $500 or by both.

12. MUST A SCHOOL OFFICIAL NOTIFY A PARENT, GUARDIAN, OR RESPONSIBLE RELATIVE WHEN A MINOR WHO IS SUSPECTED OF BEING ABUSED IS RELEASED FROM THE SCHOOL TO THE CUSTODY OF A PEACE OFFICER?

In those cases where a minor is suspected of being abused and is released from the school to the custody of a peace officer, Education Code section 48906 specifies procedures for the school official and the peace officer.

> *"... In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing."* (Ed. Code, § 48906.)

While section 48906 does not explain what the school official should do when a parent calls regarding the location of his or her child, it would be advisable for the school official to ask for the name and telephone number of the peace officer to give to an inquiring parent, as well as for instructions from the peace officer regarding such inquiries.

Appendix I

Medical Report—Suspected Child Abuse
DOJ 900

MEDICAL REPORT—SUSPECTED CHILD ABUSE

I. GENERAL INFORMATION Print or type

II. MEDICAL EXAMINATION

A. History

B. Sexual Assault

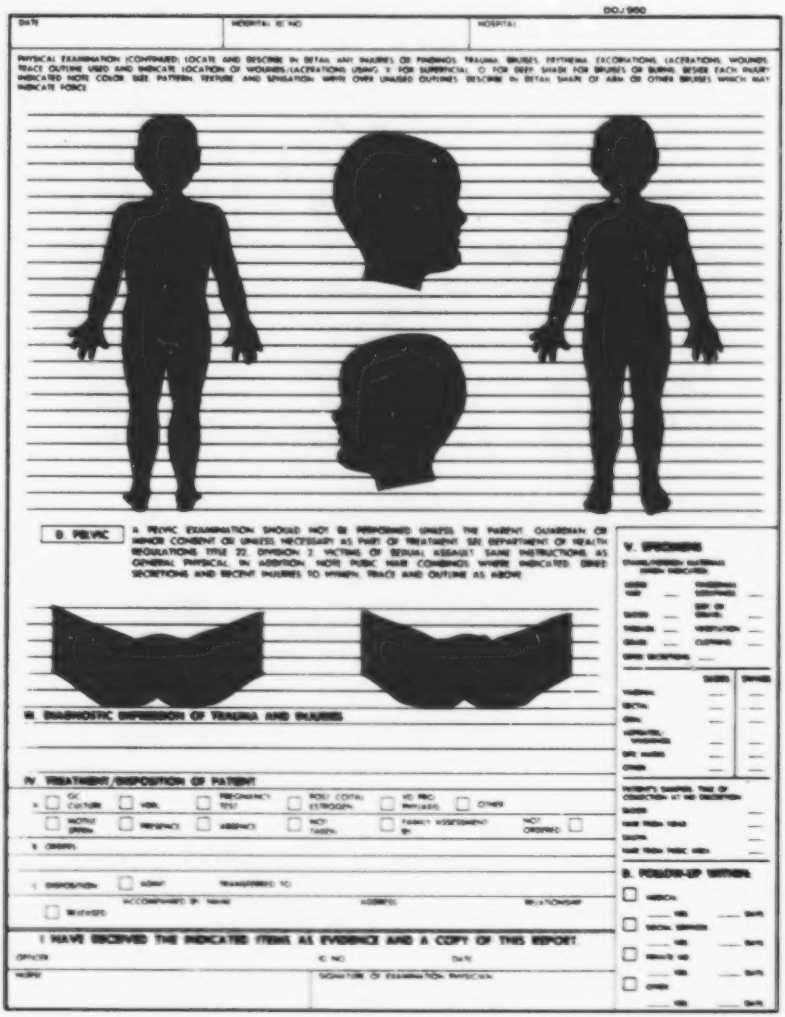
C. Physical Examination

DIAGNOSTIC DATA

BEST COPY AVAILABLE

Appendix I

Medical Report—Suspected Child Abuse
DOJ 900


DOJ 900

DATE | HOSPITAL ID NO | HOSPITAL

PHYSICAL EXAMINATION (CONTINUED): LOCATE AND DESCRIBE IN DETAIL ANY INJURIES OR FINDINGS. TRAUMA: BRUISES, ERYTHEMA, EXCORIATIONS, LACERATIONS, WOUNDS. TRACE OUTLINE USED AND INDICATE LOCATION OF WOUNDS/LACERATIONS USING 'S' FOR SUPERFICIAL, 'D' FOR DEEP. SHADE FOR BRUISES OR BURNS. DESCRIBE EACH INJURY INDICATED (NOTE COLOR, SIZE, PATTERN, TEXTURE, AND SENSATION). WHERE OWN UNUSED OUTLINES. DESCRIBE IN DETAIL SHAPE OF ABRA OR OTHER BRUISES WHICH MAY INDICATE FORCE)

II. PELVIC — A PELVIC EXAMINATION SHOULD NOT BE PERFORMED UNLESS THE PARENT, GUARDIAN OR MINOR CONSENT OR UNLESS NECESSARY AS PART OF TREATMENT. SEE DEPARTMENT OF HEALTH REGULATIONS, TITLE 22, DIVISION 3, VICTIMS OF SEXUAL ASSAULT. SALINE INSTRUCTIONS, AS GENERAL PHYSICAL. IN ADDITION, NOTE PUBIC HAIR COMBINGS WHERE INDICATED. DRIED SECRETIONS AND RECENT INJURIES TO VAGINA, TRACE AND OUTLINE AS ABOVE.

III. DIAGNOSTIC IMPRESSION OF TRAUMA AND INJURIES

IV. TREATMENT/DISPOSITION OF PATIENT

V. SPECIMENS

VI. FOLLOW-UP WITHIN

I HAVE RECEIVED THE INDICATED ITEMS AS EVIDENCE AND A COPY OF THIS REPORT.

OFFICER | ID NO | DATE

NURSE | SIGNATURE OF EXAMINING PHYSICIAN

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Appendix II

Suspected Child Abuse Report (11166 PC)
DOJ SS 8572

SUSPECTED CHILD ABUSE REPORT
(11166 PC)

TO BE COMPLETED BY REPORTING PARTY

TO BE COMPLETED BY INVESTIGATING OFFICER

VICTIM NAME:

REPORT NO./CASE NAME:

DATE OF REPORT:

A REPORTING PARTY

NAME/TITLE

ADDRESS

( ) PHONE

DATE OF REPORT

SIGNATURE OF REPORTING PARTY

B REPORT TO AGENCY

POLICE DEPARTMENT SHERIFF'S OFFICE COUNTY WELFARE COUNTY PROBATION

AGENCY

ADDRESS

OFFICIAL CONTACTED

( ) PHONE

DATE/TIME

C VICTIM

NAME (LAST, FIRST, MIDDLE)

ADDRESS

BIRTHDATE SEX RACE

PRESENT LOCATION OF CHILD

( ) PHONE

SIBLINGS

1.
2.
3.

4.
5.
6.

NAME BIRTHDATE SEX RACE

NAME BIRTHDATE SEX RACE

D PARENTS

NAME (LAST, FIRST, MIDDLE) BIRTHDATE SEX RACE

ADDRESS

( ) HOME PHONE

( ) BUSINESS PHONE

NAME (LAST, FIRST, MIDDLE) BIRTHDATE SEX RACE

ADDRESS

( ) HOME PHONE

( ) BUSINESS PHONE

E INCIDENT INFORMATION

IF NECESSARY, ATTACH EXTRA SHEET OF OTHER FORM AND CHECK THIS CIRCLE

1. DATE/TIME OF INCIDENT

PLACE OF INCIDENT

(CHECK ONE) OCCURRED OBSERVED

IF CHILD WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE:

GROUP HOME OR INSTITUTION FOSTER CARE OTHER PLACEMENT (SPECIFY)

2. TYPE OF ABUSE (CHECK ONE OR MORE) PHYSICAL MENTAL SEXUAL ASSAULT NEGLECT OTHER

3. NARRATIVE DESCRIPTION

4. SUMMARIZE WHAT THE ABUSED CHILD OR PERSON ACCOMPANYING THE CHILD SAID HAPPENED

5. EXPLAIN KNOWN HISTORY OF SIMILAR INCIDENTS FOR THIS CHILD

SS 8572 4/81

INSTRUCTIONS ON REVERSE

Sheriff – WHITE Copy; DOJ – PINK Copy; County Welfare or Probation – BLUE Copy; District Attorney – GREEN Copy; Reporting Party – YELLOW Copy

USAJAVA Y40 ICSR
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Appendix II

Suspected Child Abuse Report (11166 PC)
DOJ SS 8572

THIS FORM, AS ADOPTED BY DEPARTMENT OF JUSTICE, IS REQUIRED
UNDER PENAL CODE SECTIONS 11166 AND 11168

REPORTING RESPONSIBILITIES

- [illegible]
- [illegible]
- [illegible]

REPORTING PARTY DEFINITIONS

- "Child care custodian" means [illegible]
- "Medical practitioner" means [illegible]
- "Nonmedical practitioner" means [illegible]
- "Child protective agency" means [illegible]

INSTRUCTIONS

I. CASE IDENTIFICATION (Upper Box) – To Be Completed by Investigating Child Protective Agency

Case Identification: Enter the victim name, report number or case name, and date of report.

II. SUSPECTED CHILD ABUSE REPORT (11166 PC) – To Be Completed by Reporting Party

A. Reporting Party: Enter name/title, address, phone number, and the date of report, and sign.

B. Report Sent To: 1) Check the appropriate child protective agency, to whom this report is being sent. 2) Enter the name and address of the child protective agency to whom this report is being sent. 3) Enter the name of the official contacted at the child protective agency, phone number, and the date/time contacted.

C. Victim: Enter the name, address, physical description, present location, and phone number where victim is located (attach additional sheets if multiple victims).

Siblings: Enter the name and physical description of siblings living in the same household as the victim.

D. Parents: Enter the names, physical descriptions, addresses, and phone numbers of father/stepfather and mother/stepmother.

E. Incident Information: 1) Enter the date, time, and place the incident occurred or was observed, and check the appropriate circle. 2) Check the type of abuse. 3) Describe injury or sexual assault (where appropriate, attach form DOJ 900, Medical Report – Suspected Child Abuse or any other form describing injuries). 4) Summarize what the child or person accompanying the child said happened. 5) Explain any known prior incidents involving the victim.

III. DISTRIBUTION

A. Reporting Party: Complete form SS 8572, Suspected Child Abuse Report (11166 PC). Retain yellow copy for your records and submit top four copies to a child protective agency.

B. Investigating Child Protective Agency: Upon receipt of Form SS 8572, Suspected Child Abuse Report (11166 PC), send white copy to police or sheriff, blue copy to county welfare or probation, and green copy to district attorney within 36 hours. Complete Form SS 8573, Suspected Child Abuse Report/Investigation Report (11168 PC), attach pink copy to pink copy of SS 8572, and forward to DOJ, immediately.

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